

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JUSTIN DOUGLAS CAMPBELL,

Plaintiff

Case No. 2:20-cv-02277-GMN-VCF

ORDER

v.

CALVIN JOHNSON et al.,

Defendants

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a formerly incarcerated person. On September 17, 2021, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff to file an amended complaint within 30 days. (ECF No. 5 at 9). The 30-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey
2 a court order, or failure to comply with local rules, the court must consider several factors:
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
13 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
14 disposition of cases on their merits—is greatly outweighed by the factors in favor of
15 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
16 the court's order will result in dismissal satisfies the "consideration of alternatives"
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
18 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within 30
19 days expressly stated: "It is further ordered that, if Plaintiff fails to file an amended
20 complaint curing the deficiencies outlined in this order, the Court will dismiss this action
21 without prejudice for failure to state a claim." (ECF No. 5 at 9). Thus, Plaintiff had
22 adequate warning that dismissal would result from his noncompliance with the Court's
23 order to file an amended complaint within 30 days.

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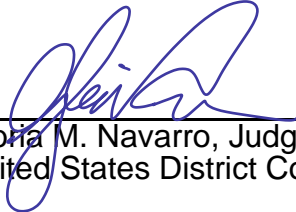
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1 It is therefore ordered that this action is dismissed without prejudice based on
2 Plaintiff's failure to file an amended complaint in compliance with this Court's September
3 17, 2021, order and for failure to state a claim.

4 It is further ordered that the Clerk of Court will close this case and enter judgment
5 accordingly.

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7 DATED THIS 25 day of October 2021.

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11 Gloria M. Navarro, Judge
12 United States District Court
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